
HOUSE BILL 2233

State of Washington

62nd Legislature

2012 Regular Session

By Representatives McCoy, Hunt, Haigh, Pedersen, Appleton, Morris, Billig, Fitzgibbon, Eddy, Sells, Tharinger, Jinkins, Hasegawa, Pollet, Wylie, Upthegrove, and Roberts

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1 AN ACT Relating to creating a procedure for the state's
2 retrocession of civil and criminal jurisdiction over Indian tribes and
3 Indian country; and adding a new section to chapter 37.12 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 37.12 RCW
6 to read as follows:

7 (1) The process by which the state may retrocede to the United
8 States all or part of the civil and/or criminal jurisdiction previously
9 acquired by the state over a federally recognized Indian tribe, and the
10 Indian country of such tribe, must be accomplished in accordance with
11 the requirements of this section.

12 (2) To initiate civil and/or criminal retrocession the duly
13 authorized governing body of a tribe must submit a retrocession
14 resolution to the governor. The resolution must express the desire of
15 the tribe for the retrocession by the state of all or any measures or
16 provisions of the civil and/or criminal jurisdiction acquired by the
17 state under this chapter over the Indian country and the members of
18 such Indian tribe. Before a tribe submits a retrocession resolution to
19 the governor, the tribe and affected municipalities are encouraged to

1 collaborate in the adoption of interlocal agreements, or other
2 collaborative arrangements, with the goal of ensuring that the best
3 interests of the tribe and the surrounding communities are served by
4 the retrocession process.

5 (3) Upon receiving a resolution under this section, the governor
6 must within ninety days convene a government-to-government meeting with
7 either the governing body of the tribe or duly authorized tribal
8 representatives for the purpose of considering the tribe's retrocession
9 resolution.

10 (4) Within one year of the receipt of a tribe's retrocession
11 resolution the governor must issue a formal, written proclamation
12 approving or denying the resolution, either in whole or in part. This
13 one-year deadline may be extended by the mutual consent of the tribe
14 and the governor. Within ten days of issuance of a proclamation
15 approving the retrocession resolution, the governor must formally
16 submit the proclamation to the federal government in accordance with
17 the procedural requirements for federal approval of the proposed
18 retrocession.

19 (a) In the event the governor denies all or part of the resolution,
20 the proclamation must contain comprehensive, detailed factual findings
21 in support of such denial.

22 (b) If the governor fails to issue a proclamation approving or
23 denying the tribe's retrocession resolution before the expiration of
24 the one-year deadline, the tribal resolution is deemed approved and the
25 governor must, within thirty days following the expiration of such
26 deadline, issue a proclamation approving the tribal resolution and
27 recommending that the federal government approve the tribe's request
28 for state retrocession. The governor must formally submit the
29 proclamation to the federal government within ten days of issuance and
30 in accordance with the procedural requirements for federal approval of
31 the proposed retrocession.

32 (5) Within one hundred twenty days of the governor's receipt of a
33 tribe's resolution requesting civil and/or criminal retrocession, but
34 prior to the governor's issuance of the proclamation approving or
35 denying the tribe's resolution, the appropriate standing committees of
36 the state house and senate may conduct public hearings on the tribe's
37 request for state retrocession. The majority leader of the senate must
38 designate the senate standing committee and the speaker of the house of

1 representatives must designate the house standing committee. Following
2 such public hearings, the designated legislative committees may submit
3 advisory recommendations and/or comments to the governor regarding the
4 proposed retrocession, but in no event are such legislative
5 recommendations binding on the governor or otherwise of legal effect.

6 (6) The proclamation for retrocession does not become effective
7 until it is approved by a duly designated officer of the United States
8 government and in accordance with the procedures established by the
9 United States for the approval of a proposed state retrocession.

10 (7) Notwithstanding the state's retrocession of criminal and/or
11 civil jurisdiction under this section, the state must retain the civil
12 jurisdiction necessary for the civil commitment of sexually violent
13 predators pursuant to chapter 71.09 RCW.

14 (8) The following definitions apply for the purposes of this
15 section:

16 (a) "Civil retrocession" means the state's act of returning to the
17 federal government the civil jurisdiction acquired over Indians and
18 Indian country under federal Public Law 280, Act of August 15, 1953, 67
19 Stat. 588 (codified as amended at 18 U.S.C. Sec. 1162, 25 U.S.C. Secs.
20 1321-1326, and 28 U.S.C. Sec. 1360);

21 (b) "Criminal retrocession" means the state's act of returning to
22 the federal government the criminal jurisdiction acquired over Indians
23 and Indian country under federal Public Law 280, Act of August 15,
24 1953, 67 Stat. 588 (codified as amended at 18 U.S.C. Sec. 1162, 25
25 U.S.C. Secs. 1321-1326, and 28 U.S.C. Sec. 1360);

26 (c) "Indian tribe" means any federally recognized Indian tribe,
27 nation, community, band, or group;

28 (d) "Indian country" means:

29 (i) All land within the limits of any Indian reservation under the
30 jurisdiction of the United States government, notwithstanding the
31 issuance of any patent, and including rights-of-way running through the
32 reservation;

33 (ii) All dependent Indian communities with the borders of the
34 United States whether in the original or subsequently acquired
35 territory thereof, and whether within or without the limits of a state;
36 and

37 (iii) All Indian allotments, the Indian titles to which have not
38 been extinguished, including rights-of-way running through the same.

1 (9) The provisions of RCW 37.12.010 are not applicable to a civil
2 and/or criminal retrocession that is accomplished in accordance with
3 the requirements of this section.

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